

# REQUEST FOR PROPOSAL

CITY OF TEMPE

REQUEST FOR PROPOSAL: 06-064

RFP ISSUE DATE: 11/08/05

Commodity Code(s): 918-79

PROCUREMENT DESCRIPTION: Small Business Education Program

918-38

918-20

PROPOSAL DUE DATE/TIME: Thursday, December 8, 2005, 3:00 P.M. MST

Late proposals will not be considered

## PROPOSAL RESPONSE MUST BE DELIVERED TO CITY PROCUREMENT OFFICE

Mailing Address: PO Box 5002, Tempe, AZ 85280

Street Address: 20 E. Sixth Street (2<sup>nd</sup> Floor), Tempe, AZ 85281

PRE-PROPOSAL CONFERENCE: N/A

DEADLINE FOR INQUIRIES: Monday, November 28, 2005, 5:00 P.M., MST

Sealed proposals must be received and in the actual possession of the City Procurement Office on or before the exact Proposal Due Date/Time indicated above. Proposal responses will be opened and each offeror's name will be publicly read. Prices are not read and kept confidential until award. Late proposals will not be considered.

Proposals must be submitted by a sealed envelope/package with the Request For Proposal number, offeror's name and address clearly indicated on the envelope/package.

Proposals must be completed in ink or typewritten and a completed proposal response returned to the City Procurement Office by the Proposal Due Date/Time indicated above. The "Vendor's Proposal Offer" (form 201-B RFP) must be completed and signed in ink. Proposals by electronic transmission, telegraph, mailgram or facsimile will not be considered.

Proposal offeror's are asked to immediately and carefully read the entire Request For Proposal and not later than 10 days before the Proposal Due Date/Time, address any questions or clarifications to the Procurement Officer identified below:

Donna Littrell, CPPB E-mail: [Donna\\_littrell@tempe.gov](mailto:Donna_littrell@tempe.gov) Phone No: 480-350-8516

**Procurement  
Administrator**

Proposal evaluation and award selection recommendations are publicly posted to the City Procurement Office web page ([www.tempe.gov/purchase](http://www.tempe.gov/purchase)) and at the Procurement Office reception counter.

Submit one- (1) original signed and completed proposal response for evaluation purposes. For this specific RFP, 3 additional proposal response copies are also to be submitted for evaluation purposes. A late, unsigned and/or materially incomplete proposal response will be considered non-responsive and rejected.

DL

Donna Littrell, CPPB  
Central Services Administrator

# Vendor's Proposal Offer

It is REQUIRED that Proposal Offeror COMPLETE, SIGN and SUBMIT the original of this form to the City Procurement Office with the proposal response offer. An unsigned "Vendor's Proposal Offer", late proposal response and/or a materially incomplete response will be considered non-responsive and rejected.

Proposal offeror is to type or legibly write in ink all information required below.

Proposal Offeror's Company Name _____
Company Mailing Address _____
Company Street Address _____
Proposal Offeror Contact _____ Title _____
Contact's Phone No. _____ E-mail Address _____
<u>Proposal Offeror's Company Tax Information:</u>
Arizona Transaction Privilege (Sales) Tax No. _____ or
Arizona Use Tax No. _____
Federal I.D. No. _____
City & State Where Sales Tax is Paid _____, _____

## THIS PROPOSAL IS OFFERED BY

Authorized Proposal Offeror (Type or Print in ink) \_\_\_\_\_

Proposal Offeror's Title (Type of Print in ink) \_\_\_\_\_

Date \_\_\_\_\_

## REQUIRED SIGNATURE OF AUTHORIZED PROPOSAL OFFEROR (Must Sign in Ink)

By signing this Proposal Offer, Offeror acknowledges acceptance of all terms and conditions contained herein and that prices offered were independently developed without consultation with any other offeror or potential offeror. Failure to sign and return this form with proposal offer will result in a non-responsive proposal.

\_\_\_\_\_  
**Signature of Authorized Proposal Offeror**

\_\_\_\_\_  
**Date**

## INSTRUCTIONS TO PROPOSAL OFFERORS

Please note that these Instructions are to be read and followed by any proposal offeror and/or contracted vendor and that failure to follow these Instructions may result in rejection of a proposal offer for non-responsiveness or cancellation of contract if already awarded.

1. **Preparation of Proposal Response:** It is the offeror's responsibility to examine this entire Request For Proposal document immediately upon its receipt and to seek clarification of any item or requirement that may not be clear and to check all proposal responses for completeness and accuracy before submitting a proposal. Concerns about any obvious errors, points of confusion and/or possible improprieties in this Request For Proposals that are apparent before the proposal opening date are to be filed with the City Procurement Office prior to the scheduled proposal opening date. Negligence in preparing a proposal response confers no right of withdrawal after proposal due date and time.

The City will not reimburse the cost of developing, presenting or providing any proposal response to this Request For Proposals.

2. **Late, Unsigned and/or Incomplete Proposal Response:** A late, unsigned and/or materially incomplete proposal response will be considered non-responsive and rejected. The City will not accept a signed letter by proposal offeror in lieu of a signed "Vendor's Proposal Offer", form 201-B (RFP) as provided in this Request For Proposals.
3. **Inquiries:** Questions regarding this Request For Proposals are to be directed only to the City Procurement Officer identified on the cover page of this document, form 201-A (RFP); unless another City contact is specifically named in this Request For Proposals. Questions should be submitted in writing, when time permits. When sending correspondence related to this Request For Proposals, identify within the letter, the appropriate Request For Proposals' number, page and paragraph at issue. However, offeror (vendor) must not place the Request For Proposals' number on the outside of an envelope containing questions, since the envelope may be identified as a sealed proposal response and not opened until the official proposal opening date and time. Inquiries and questions should be asked of the City Procurement Office not later than 10 days before proposal opening and those received within 10 days of proposal opening may not be answered.
4. **Proposal Conference:** If a Proposal Conference is scheduled, it is the offeror's responsibility to attend the conference, ask questions, seek clarifications and identify any points of confusion or requirements at issue.
5. **Withdrawal of Proposal:** At any time before the specified proposal opening date and time, an offeror may withdraw their proposal. Offeror must present identification and documentation to indicate their authority to withdraw a proposal response.
6. **Proposal Addendum(s):** Receipt and acceptance of a Request For Proposals' Addendum is to be acknowledged by signing and returning the document either with the proposal response or by separate envelope prior to proposal opening date and time. Failure to sign and return an addendum prior to proposal opening time and date may make the proposal offer non-responsive to that portion of the Request For Proposal as materially affected by the respective addendum.

7. **Payment:** For a single requirement purchase, the City will make every effort to make payment within 30 calendar days from receipt of acceptable products, materials and/or services and receipt of correct invoice. For ongoing term contract purchases, the City will make every effort to make payment within 30 calendar days from receipt of monthly statement.
8. **Discounts:** Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.
9. **Compliance with City Solicitation Requirements and Award of Contract:** Unless the offeror states otherwise or unless it states otherwise in this Request For Proposals, the City reserves the right to award by individual line item, by group of items, or as a total, whichever is most advantageous to the City. The City expressly reserves the right to waive any immaterial defect or informality, or reject any or all proposals, or portions thereof, or reissue this Request For Proposal.

A proposal response is an offer to contract with the City based on the terms, conditions and specifications contained in this Request For Proposals. An offeror does not become a contractor unless they receive a formal contract award from the City Procurement Office. Unless this Request For Proposal includes a separate contract document or requires the offeror to submit a contract for review, a contract is formed when the City Procurement Office provides a written notice of award or a purchase order to the successful offeror. Proposal offers that take exception to the terms, conditions, specifications and/or other requirements stated within this Request For Proposal will cause the proposal offer to be considered as non-responsive. Exceptions will be evaluated on an individual basis to determine their compliance with the purpose and intent of the terms and conditions stated within this solicitation. The City shall be the sole judge as to whether an exception complies with the general purpose and intent of any term, condition and/or specification stated within this solicitation document.

10. **Taxes:** Propose all materials (equipment/products) F.O.B. Tempe, prepaid. Unless specifically requested in this Request For Proposals, do not include any Sales, Use or Federal Excise Tax in your proposal pricing. The City is exempt from payment of Federal Excise Tax. For proposal evaluation, transaction (Sales) Privilege Tax paid (returned) to the City is considered a pass-through cost, calculated as zero (0) expense. For information on City of Tempe Privilege (Sales) Tax, please contact the City's Tax and License Office at (480) 350-8327 or visit their web site at [www.tempe.gov/salestax](http://www.tempe.gov/salestax).
11. **Payment By City Procurement Card:** The City Procurement Office (only) may wish to make payment through the use of a City Procurement Card. It is requested that each offeror indicate on the Price Sheet (pricing section) of this Request For Proposals, their willingness to accept City Procurement Card payments. The inability to accept payment by City Procurement Card will not disqualify a proposal response.
12. **Proposal Results:** Offerors are invited to attend the scheduled proposal opening at which the name of each offeror will be publicly read (not prices). After award of proposal, an appointment may be made with the City Procurement Officer (identified on the cover page of this Request For Proposal) and the proposal documents may be reviewed with the Procurement Officer. Formal award recommendations will be placed on the Procurement Office web page ([www.tempe.gov/purchase](http://www.tempe.gov/purchase)) and posted at the front counter of the Procurement Office at the same time the award recommendation is forwarded for City Council review. Parties interested in the outcome of a proposal may check the City Procurement Office web page or check for posted awards at the Procurement Office front counter.

13. **Protests:** Any actual or prospective offeror who is aggrieved in conjunction with this Request For Proposals or award of a contract may protest to the City Procurement Office (City Procurement Officer contact). A protest based upon alleged improprieties in this Request For Proposals that are apparent before the proposal opening shall be filed before proposal opening. At least five (5) days before award of a contract, the City Procurement Office will post award recommendations on its web page ([www.tempe.gov/purchase](http://www.tempe.gov/purchase)) and at the Procurement Office front counter for public review. A protest concerning an award recommendation must be filed within 10 calendar days after the protester knows or should have known the facts and circumstances upon which the protest is based. A protest shall be in writing and include the protester's name, address and phone number, identification of the solicitation or contract being protested, a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and indication as to the form of relief requested. Protest is to be on the protester's company letterhead and signed.
14. **Request for Taxpayer I.D. Number and Certification, IRS W-9 Form:** An attached IRS W-9 form serves as the last page of this Request For Proposal and is to be completed by proposal offeror and submitted with the proposal response. Prior to any contract award, this IRS W-9 form must be completed and submitted to the City Procurement Office.
15. **Compliance of Proposal Offeror/Contractor Forms:** Any forms (for example, separate contract, maintenance agreement, training agreement) intended by the proposal offeror and/or contractor to be utilized in relationship to any resulting contract must be submitted with proposal offer. Proposal offeror and/or contractor forms that take exception to any of the terms, conditions, specifications and/or other requirements stated within this Request For Proposal may cause the proposal response to be considered as non-responsive and rejected from consideration or a contract award to be void. Absolutely no proposal offeror/contractor form will be considered unless submitted with proposal response and approved by the City Procurement Office. No City department is authorized to sign any proposal offeror and/or contracted vendor form(s) in relationship to this Request For Proposals and/or subsequent contract without the City Procurement Office first reviewing the document for compliance with the City's solicitation and stamping/initialing the document as being in compliance.
16. **Proposal, Offer and Contract:** Proposal offers that take exception to Special Terms & Conditions stated within this Request For Proposals may cause the proposal response to be considered as non-responsive. As set forth in this Special Terms and Conditions section, "vendor" means a person or firm in the business of selling or otherwise providing products, materials or services and "proposal offeror" means a vendor making a proposal offer in response to a Request For Proposal. "Contractor" means any person or firm who has a contract with the City. A successful "proposal offeror" who is awarded a contract with the City becomes a "contractor".

Any language in proposal offers that takes exception or provides different or conflicting terms, conditions, obligations, specifications, and/or requirements than those contained in the City's Standard Terms and Conditions or Special Terms and Conditions are deemed rejected by the City and are not included in the contract unless expressly agreed to in writing by the City of Tempe.

## STANDARD TERMS & CONDITIONS

Please note that these Standard Terms & Conditions are to be read and complied with by proposal offeror and/or contracted vendor and that failure to follow these requirements may result in rejection of a proposal response for non-responsiveness or cancellation of any awarded contract.

1. **Certification:** By signing the "Vendor's Proposal Offer", form CS-P201 (B), the offeror certifies:
  - A. The submission of the proposal offer response did not involve collusion or other anti-competitive practices.
  - B. The vendor shall not discriminate against any employee or applicant for employment in violation of Federal and Arizona State law and the vendor shall comply with the Americans with Disabilities Act (ADA). Suppliers of products and services to the City of Tempe shall operate as an equal opportunity employer and shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, sexual orientation, national origin, or because he or she has a physical or mental disability or because he or she is a disabled veteran or a veteran of the Vietnam era, including, without limitation, with respect to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

The City Procurement Office is committed to fair and equal procurement opportunities for all firms wishing to do business with the City and encourages the participation of small and disadvantaged businesses in all proposals and contracting activities conducted by the City.
  - C. The vendor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to sign the "Vendor's Proposal Offer" or signing it with a false statement shall void the submitted proposal offer and/or any resulting contract. In addition, the vendor may be debarred from future proposal and bidding participation with the City and may be subject to such actions as permitted by law.
  - D. The vendor agrees to promote and offer to the City only those materials and/or services as stated and allowed by this Request For Proposals and resultant contract award. Violation of this condition will be grounds for contract termination by the City.
2. **Gratuities:** The City may, by written notice to the contractor, cancel any resultant contract, if it is found that gratuities in any form were offered or given by the contractor or agent or representative of the contractor, to any employee of the City or member of a City evaluation committee with a view toward securing an order, securing favorable treatment with respect to awarding, amending or making of any determinations with respect to performing such order. In event the contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from contractor the amount of gratuity.
3. **Applicable Law:** This contract shall be governed by, and the City and contractor shall have all remedies afforded each by the Uniform Commercial Code, as adopted in the State of Arizona, except as otherwise provided in this Request For Proposals and resultant contract or in statutes or ordinances pertaining specifically to the City. This contract shall be governed by State of Arizona law and suits pertaining to this contract may only be brought in courts located in Maricopa County, Arizona.

4. **Dispute Resolution:** This contract is subject to arbitration to the extent required by law. If arbitration is not required by law, the City and the contractor will meet and/or consult with each other in good faith to resolve any disputes arising out of the contract. If good faith efforts fail, then the City and contractor may attempt to resolve any disputes through mediation. If mediation is utilized, the City and contractor mutually will agree upon a mediator whose fees will be shared equally by the City and contractor.
5. **Contract Formation:** This contract shall consist of this Request For Proposals document and the proposal offer response submitted by the vendor, as may be found responsive and approved by the City. In the event of a conflict in language between the two documents, the provisions of the City's Request For Proposals shall govern. The City's Request For Proposals shall govern in all other matters not affected by a written contract. All previous contracts between the offeror and the City are not applicable to this contract or other resultant contracts. Any contracted vendor documents that conflict with the language and requirements of the City's solicitation are not acceptable and void the contract.
6. **Availability of Funds for the Next Fiscal Year:** The City's obligation for performance of this contract is contingent upon the availability of funds from which payment for contract purposes can be made. No legal liability on the part of the City for any payment may arise for performance under this contract beyond the current fiscal year until funds are made available for performance of this contract.
7. **Contract Modifications:** This contract may only be modified by a written Contract Modification issued by the City Procurement Office and counter-signed by the contractor.
8. **Provisions By Law:** Each and every provision of law and any clause required by law to be in this contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract will forthwith be physically amended to make such insertion or correction.
9. **Severability:** The provisions of this contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the contract which may remain in effect without the invalid provision or application to the extent that the material provisions of this RFP and contract are not materially vitiated.
10. **Relationship of Parties:** It is clearly understood that each party to this contract will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other party. An employee or agent of one party shall not be an employee or agent of the other party for any purpose whatsoever.
11. **Interpretation of Parol Evidence:** This contract is intended as a final expression of the agreement between the parties and as a complete and exclusive statement of the contract, unless the signing of a subsequent contract is specifically called for in this Request For Proposals. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the contract. Acceptance or acquiescence in a course of performance rendered under this contract shall not be relevant to determine the meaning of the contract, even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.
12. **Contract Assignment:** No right or interest in this contract shall be assigned by contractor and no delegation of any duty of contractor shall be made without prior written permission of the City Procurement Office.

13. **Rights and Remedies:** No provisions of this Request For Proposal document or in the vendor's proposal response offer shall be construed, expressly or by implication, as a waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of the City to insist upon strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, shall not release the contractor from any responsibilities or obligations imposed by the contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of the contract.
14. **Overcharges By Antitrust Violations:** The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the City. Therefore, to the extent permitted by law, the contractor hereby assigns to the City any and all claims for such overcharges as the goods and/or services used fulfill the contract.
15. **Force Majeure:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under the contract if and to the extent that such party's performance of the contract is prevented by reason of force majeure. Force majeure means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God, acts of the public enemy, war, riots, mobilization, labor disputes, civil disorders, fire, floods, lockouts, injunctions, failures or refusal to act by government authority, and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

Force majeure shall not include the following occurrences:

- A. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences.
- B. Late performance by a subcontractor unless the delay arises from a force majeure occurrence in accordance with this force majeure clause.

Any delay or failure in performance by either party shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within forty-eight (48) hours of the commencement thereof and shall specify the causes of such delay in the notice. Such notice shall be hand delivered or sent via Certified Mail - Return Receipt Requested and shall make a specific reference to this clause, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing by hand delivery or Certified Mail - Return Receipt Requested when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with the contract.

16. **Preparation of Specifications By Persons Other Than City Personnel:** No person preparing specifications for this Request For Proposal Shall receive any direct or indirect benefit from the use of these specification.



17. **Public Record**: After award of contract, proposal responses shall be considered public record and subject to review. If an offeror believes a specific section of its proposal response is confidential, the offeror shall mark the page(s) confidential and isolate the pages marked confidential in a specific and clearly labeled section of its proposal response. The offeror shall include a written statement as to the basis for considering the marked pages confidential and the City Procurement Office will review the material and make a determination.
18. **Conflict of Interest**: This contract is subject to the cancellation provisions of A.R.S. Section 38.511.

## Request For Proposal Special Terms and Conditions

Proposal offers that take exception to Special Terms & Conditions stated within this Request For Proposal may cause the proposal response to be considered as non-responsive. As set forth in this Special Terms and Conditions section, "vendor" means a person or firm in the business of selling or otherwise providing products, materials or services and "proposal offeror" means a vendor making a proposal offer in response to a Request For Proposal. "Contractor" means any person or firm who has a contract with the City. A successful "proposal offeror" who is awarded a contract with the City becomes a "contractor".

1. **City Procurement Document:** This Request For Proposal is issued by the City Procurement Office. No alteration of any portion of this Request For Proposal document by an offeror is permitted and any attempt to do so shall result in offeror's proposal response being considered non-responsive. No alteration of any portion of a resultant contract is permitted without the written approval of the City Procurement Office and any attempt to do so shall be a violation of the contract. Any such action is subject to the legal and contractual remedies available to the City inclusive of, but not limited to, contract cancellation, suspension and/or debarment of the contractor.
2. **Offer Acceptance Period:** To allow for an adequate evaluation, the City requires an offer in response to this Request For Proposal to be valid and irrevocable for 90 days after the proposal opening time and date.
3. **Contract Type:** Term with justifiable price adjustment allowed, indefinite quantity.
4. **Term of Contract:** The term of any resultant contract shall commence on the date of award and shall continue for a period of 24 month(s) thereafter, unless terminated, canceled or extended as otherwise provided herein. Resultant contract is non-transferable and can not be assigned by the contractor without the approval of the City Procurement Office, and then only when all prices, discounts, terms and conditions of the original proposal documents and contract award remain unchanged.
5. **Contract Renewal:** The City reserves the right to unilaterally extend the period of any resultant contract for 90 days beyond the stated expiration date. In addition, by mutual agreement in the form of a written Contract Modification, any resultant contract may be renewed for supplemental periods of up to a maximum of 24 additional months. The period for any single renewal increment shall be determined by the City Procurement Office. Such increment shall not be for more than a period of 12 months each, unless the City is eligible to obtain a significant cost and/or supply advantage by a longer contract renewal period.
6. **Cooperative Use of Contract:** In addition to the City of Tempe this contract may be extended for use by other municipalities and government agencies of the State of Arizona. Any such usage by other municipalities and government agencies must be in accord with the ordinance, charter and/or rules and regulations of the respective political entity. Any public agencies not identified within this Request For Proposal who wish to cooperatively use the contract are subject to the approval of contractor(s).
7. **Contract Termination:** This contract may be terminated without default by either party by providing a written 90 day notice of termination to the other party.

8. **Cancellation of Term Contract:** The City reserves the right to cancel the whole or any part of this contract due to failure by the contractor to carry out any obligation, term or condition of the contract. The City will issue written notice to the contractor for acting or failing to act as follows:

The contractor provides material that does not meet the specifications of the contract;

The contractor fails to adequately perform the services set forth in the specifications of the contract;

The contractor fails to complete the work required or furnish the materials required within the time stipulated in the contract;

The contractor fails to make progress in the performance of the contract and/or gives the City reason to believe that the contractor will not or cannot perform to the requirements of the contract.

Upon receipt of the written notice of concern, the contractor shall have ten (10) days to provide a satisfactory response to the City. Failure on the part of the contractor to adequately address all issues of concern may result in the City resorting to any one or to any combination of the following remedies:

1. Cancel any contract;
2. Reserve all rights or claims to damage for breach of any covenants of the contract;
3. Perform any test or analysis on materials for compliance with the specifications of the contract. If the results of any test or analysis find a material non-compliance with the specifications, the actual expense of testing shall be borne by the contractor;
4. In case of default, the City reserves the right to purchase materials and/or services, or to complete the required work in accordance with the needs of the City. The City may recover any actual excess costs from the contractor by:
  - A. Deduction from an unpaid balance;
  - B. Collection against the bid and/or performance bond, or;
  - C. Any combination of the above remedies or any other remedies as provided by law.

9. **Pricing:** Pricing accuracy and completeness are critical. All items being proposed must be identified and priced.

In the case of system proposals, all items, which are required to make the system function in accord with, stated Request F or Proposal requirements, must be identified and priced.

If provided pricing pages do not cover all such items, the offeror is to include an itemized listing of all required products and services needed to make their proposed system equipment fully functional and in conformity with stated Request For Proposal needs.

10. **365 Day Price Adjustment:** The City Procurement Office will review fully documented requests for price increases after the contract has been in effect for 365 days. The requested price increase must be based upon a cost increase that was clearly unpredictable at the time of the offer and can be shown to directly affect the price of the item concerned. The City Procurement Office will determine whether the requested price increase, or an alternative option, is in the best interest of the City. Advanced 30 day written notification by contractor is required for any price changes. All price adjustments will be effective on the first day of the month following approval or acceptance by the City Procurement Office.

Price increase requests must be acknowledged in writing by the City Procurement Office before becoming effective. If not acknowledged within 30 days, it is the contractor's responsibility to contact the Procurement Office to assure the price increase request was received.

The contractor shall likewise offer any published price reduction or if applicable to contract, profit sharing price advantage to the City concurrent with its announcement to other customers. A price reduction or profit sharing price advantage may be offered at any time during the terms of an awarded contract and shall become effective upon notice and acceptance. The City shall likewise take advantage of any special sales discounts offered to the general public, which exceed contracted price discounts extended to the City by the contractor.

11. **Billing:** All billing notices shall identify the specific item(s) being billed. Items are to be identified by name, model number, and/or serial number, as most applicable. Any purchase/delivery order issued by the requesting department shall refer to the contract number resulting from this Request For Proposal. Separate invoices are required on individual contracts or purchase orders. Only invoices with items resulting from this Request For Proposal will be accepted for payment.

12. **Infringement of Patent or Copyright:** The contractor agrees to save, keep, bear harmless and fully indemnify the City and any of its officers and employees from any and all damages, costs, or expenses in law or equity, that may at any time arise out of or be set up for any infringement of the patent right, copyright, or trademark of any person or persons in consequences of use by the City, or by any of its officers, or agents or employees of vendor supplied materials under this bid solicitation and of which the contractor is not a patentee or signee or lawfully entitled to sell the same.

Contractor (seller) agrees to indemnify and hold harmless the City (buyer) from any and all license, royalty and proprietary fees or costs, including legal costs, which may arise out of City's (buyer's) purchase and use of material (equipment/product) supplied by contractor (seller).

It is expressly agreed by contractor (seller) that these covenants are irrevocable and perpetual.

13. **Insurance:** Prior to commencing any work or services under this contract, contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons and damages to property, which may arise from or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees, or subcontractors.

A Contract Award Notice or Purchase Order will not be issued to an awarded vendor until receipt of all required insurance documents by the City Procurement Office and such documents must meet all requirements of this Insurance clause. In addition, before any contract is renewed for additional time periods, all required insurance must be in force and on file with the City Procurement Office. An awarded vendor or contractor must submit required insurance within 10 calendar days after request by the City Procurement Office or the award may be rescinded and another vendor selected for award.

## Minimum Limits Of Insurance

Contractor shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 combined single limit per occurrence for bodily injury and property damage, including coverage for contractual liability (including defense expense coverage for additional insureds), personal injury, broad form property damage, products, completed operations, and product liability. The general aggregate limit shall apply separately to this project/location or the general aggregate shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage, including coverage for owned, hired, and non-owned vehicles as applicable.
3. Workers' Compensation and Employers Liability: Workers' Compensation and Employers Liability statutory limits as required by the State of Arizona.
4. Other Insurance: (If applicable, see supplement.)

## Deductibles And Self-Insured Retentions

Any deductibles or self-insured retentions must be declared and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, and volunteers, or the contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

## Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverage:
  - a. The City, its officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the contractor including the insured's general supervision of the contractor; products and completed operations of the contractor; premises owned, occupied or used by the contractor, or automobiles owned, leased, hired or borrowed by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, or volunteers.
  - b. The Contractor's insurance coverage shall be primary as respects the City, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees, or volunteers shall be excess of the contractor's insurance and shall not contribute to it. The amount and type of insurance coverage required by this contract shall not limit the scope of the indemnity provided by this contract.
  - c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, or volunteers.
  - d. Coverage shall state that the contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage

- a. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees and volunteers for losses arising from work performed by the contractor for the City.

3. All Coverages

- a. Each insurance policy required by this contract shall be endorsed to state the coverage shall not be suspended, voided, and/or canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

**Other Insurance Requirements:** Contractor shall:

1. Prior to commencement of services, furnish the City with certificates of insurance, in form and with insurers acceptable to the City which shall clearly evidence all insurance required in this contract and provide that such insurance shall not be canceled, allowed to expire or be materially reduced in coverage except on 30 days prior written notice to and approval by the City, and in accord with stated insurance requirements of this Request For Proposal. City shall not be obligated, however, to review same or to advise contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve contractor from, or be deemed waiver of City's right to insist on, strict fulfillment of contractor's obligations under this contract.
2. Provide certified copies of endorsements and policies if requested by the City in lieu of or in addition to certificates of insurance.
3. Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.
4. Maintain such insurance from the time services commence until services are completed. Should any required insurance lapse during the contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may at its sole option, terminate this contract effective on the date of such lapse of insurance.
5. Place such insurance with insurers and agents licensed and authorized to do business in Arizona and having a Best's rating of no less than A-VII.
6. Maintain such coverage continuously throughout the term of this contract and without lapse for a period of two years beyond the contract expiration, should any of the required insurance be provided under a claims-made form, to the extent that should occurrences during the contract term give rise to the claims made after expiration of the contract, such claims shall be covered by such claims-made policies. Such extension of coverage shall be evidenced by annual certificates of insurance.

**Subcontractors and Sub-Subcontractors**

Contractor shall include all subcontractors and sub-subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors and sub-subcontractors shall be subject to all of the requirements stated herein for the contractor.

## Safety

The contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons (including employees) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to all applicable federal (including OSHA), state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. The contractor's failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve him from compliance with the obligations set forth therein.

14. **Confidentiality of Records:** The contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the contract. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of contractor as needed for the performance of duties under the contract, unless otherwise agreed to in writing by the City of Tempe.

15. **Notices:** All notices, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this provision collectively called "Notices"), shall be in writing and shall be hand delivered or sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the party or parties to receive such notice as follows:

- a. If intended for the City, to:

CITY PROCUREMENT OFFICE  
CITY OF TEMPE  
20 E. 6<sup>th</sup> Street (Second Floor)  
PO Box 5002  
Tempe, Arizona 85280

- b. If intended for the contractor, to:

The contractor at the contractor's address and the attention of the person named as provided in the offer of this contract.

or to such other address as either party may from time to time furnish in writing to the other by notice hereunder.

16. **Proposal Opening:** Proposals shall be opened at the time and place designated on the cover page of this document. The name of each offeror and the identity of the Request for Proposals for which the proposal was submitted shall be publicly read and recorded in the presence of witnesses. Proposals, modifications and all other information received in response to this Request shall be shown only to City Personnel having a legitimate interest in the evaluation. **"PRICES SHALL NOT BE READ"**. After contract award, the proposals and the evaluation documentation shall be open for public inspection.

17. **Proposal Evaluation:** In competitive Sealed Proposals, awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City taking into consideration the evaluation factors set forth in the Request for Proposals. The City shall be the sole judge as to the acceptability of the products and/or services offered.
18. **Discussion with Responsible Offerors and Revisions to Proposal:** Discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. The City may ask to obtain pertinent information for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Should the City elect to call for 'best and final' offers, offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. The purposes of such discussions shall be to:
- A. Determine in greater detail such offeror's qualifications;
  - B. Explore with the offeror the scope and nature of the project, the offeror's proposed method of performance, and the relative utility of alternate methods of approach;
  - C. Determine that the offeror will make available the necessary personnel and facilities to perform within the required time; and
  - D. Agree upon compensation which is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity and nature of such services.
19. **Key Personnel:** It is essential that the contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The contractor must agree to assign specific individuals to the key positions.
- A. The contractor agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to the City.
  - B. If key personnel are not available for work under this contract for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the contractor shall immediately notify the City, and shall, subject to the concurrence of the City, replace each person with personnel of substantially equal ability and qualifications.
20. **Confidential Information:**
- A. If a person believes that a proposal offer or specification, contains information that should be withheld, a statement advising the City Procurement Officer of this fact shall accompany the submission and the information shall be so identified wherever it appears.
  - B. The information identified by the person as confidential shall not be disclosed until the City Procurement Office makes a written determination or until after award of proposal.
  - C. The City Procurement Office shall review the statement and information and shall determine in writing whether the information shall be withheld. After award of contract, all bid response information shall be available for public inspection.



D. If the City Procurement Office determines to disclose the information, the offeror shall be informed in writing of such determination. After award of contract, all proposal response information shall be available for public inspection.

21. **Payments - After Monthly Statement:** Payment in full shall be made to the successful contractor within thirty (30) days after receipt and acceptance of monthly-itemized statement. Unless terms other than net 30 days are offered as a discount.
22. **Indemnification:** Contractor shall indemnify, defend, and save harmless the City, from any and all claims, demands, suits, actions, proceedings, loss, cost, and damages of every kind and description, including any attorney's fees and/or litigation expenses (hereafter collectively referred to as 'claims'), which may be brought or made against or incurred by the City on account of loss of or damage to any property for injuries to or death of any person, *to the extent such claims are allegedly* caused by, arising out of, or contributed to by reasons of any negligent act, or omission, professional error, fault, mistake, or negligence of contractor, Its employees, agents, representatives, or subcontractors, their employees, agents, or representatives in connection with or incident to the performance of this Agreement, or to the extent such claims allege vicarious or derivative liability of the City or to the extent such claims are alleged to arise out of Worker's Compensation claims, Unemployment Compensation claims, or Unemployment Disability Compensation claims of employees of contractor and/or its subcontractors or claims under similar such laws or obligations. Contractor's obligation under this Section shall not extend to any liability caused by the negligence of the City or its employees.
23. **Taxes:** Propose all products F.O.B. Tempe, prepaid. Do not include any Sales, Use or Federal Excise Tax in your proposal pricing; unless specifically requested on the Price Sheet(s) within the Request For Proposal document. The City is exempt from payment of Federal Excise Tax and for proposal evaluation purposes will add Sales or Use Tax as applicable. For proposal evaluation purposes, transaction (sales) Privilege Tax to be paid (returned) to the City of Tempe, will be considered as a pass-through cost of Tempe vendors and calculated as a realized net expense of zero (0).
24. **Unauthorized Firearms & Explosives:** No person conducting business on City property is to carry a firearm or explosive of any type. Any City bidder, contractor or subcontractor is to honor this requirement at all times and failure to honor this requirement will result in contract cancellation. This requirement also applies to persons who maintain a concealed weapon's permit. In addition to contract cancellation, anyone carrying a firearm or explosive device will be subject to police and legal action.

## **Scope**

The City of Tempe Business Retention and Expansion Program provides a constant outreach to the small business community. The City would like the ability to establish a contract with a qualified service provider to offer practical, hand-on entrepreneurship programs designed to help local entrepreneurs hone their skills needed to create, manage, and grow successful business. The contract would be for two-years with renewal options available by mutual consent as listed in the Special Terms and Conditions to the RFP.

It is anticipated that through business mentorship, local entrepreneurs who enroll in this program will be more successful in creating a new business or expanding an existing enterprise. The successful respondent will deliver a comprehensive entrepreneurial program in a classroom environment.

# Specifications

## Program Outcomes and Objectives

- Enroll and assist at least 10 – 12 business owners or budding entrepreneurs per session.
- Develop business plans that indicate knowledge of financials and marketing strategies. To be measured by collecting the completed plans of at least 30% of the participants.
- Create sound businesses that can attract capital. This would be demonstrated by having at least three businesses in the program funded through debt or equity.
- Create real management teams in each business we assist through 1:1 counseling and site visits.
- Connect local businesses to the right resources necessary for success.
- Assist entrepreneurs in growing and expanding their business.
- Assist entrepreneurs through the creation of business plans and financial and tax planning.
- Focus on developing and growing small entrepreneur-type businesses.
- Provide entrepreneur with a clear understanding of human resources and legal obligations.

## Curriculum Goals

The participants in the program need to be armed with information on strategic planning, legal issues, market research and analysis, financial documents and cash flow management.

## Emphasis

The emphasis of the program should be on emerging and growing entrepreneurs to determine if their business concept is viable. The program should cover at a minimum personal and business criteria, market research, financial documents, and financing a new venture while learning how to conduct a feasibility study on their business idea.

## Schedule

Provide a sample program schedule which would include the following:

- Specific outcomes and deliverables
- Target population
- Number of persons to be assisted
- Jobs created/retained

## Program Sustainability

Provide information on the sustainability of the program.

## Resources

Classroom facilities will be provided by the city of Tempe. We anticipate the selected service provider collaborating with other agencies in the delivery of content. Please describe in detail the additional business resources you as a service provider anticipate needing in the delivery of related entrepreneurial services.

## Materials

Describe the materials needed from the City and the firm.

## Proposal Questionnaire

Please provide the following information which will be used during the evaluation process. Include the number of the question in your response.

1. A detailed background/history of your firm.
2. Qualifications of the instructors and their orientation to small business.
3. Description of the curriculum that will enable the businesses enrolled in the program to achieve the goals as outlined in the Specifications.
4. Complete, all inclusive cost of program including admission, testing, fees, etc. for onsite classes (at Tempe city location) or classes in your local facility.
5. Variables that will affect the proposed costs.
6. Timeline for completion of program.
7. Recommended implementation plan including the role the agency will play in counseling, advising, scheduling, and tracking the businesses progress.
8. Three references to whom you have provided similar services. Include a contact name and telephone number.

Business Name	Contact Name	Telephone
9. Evidence of financial stability of firm.
10. Collaboration with other agencies.

## **Proposal Checklist For Submittals**

- \_\_\_\_\_ One signed and complete original of the proposal response, including "Vendor's Proposal Offer" (Form 201-B).
- \_\_\_\_\_ Proposal Questionnaire has been completed and included.
- \_\_\_\_\_ Price Information completed and included.
- \_\_\_\_\_ Any addendum(s) have been included.

## Evaluation

An evaluation committee composed of Economic Development and Procurement staff will review the proposal responses and score them according to the criteria listed in the RFP. Those vendors receiving the highest scores may be invited to provide the committee with a presentation. Site visits may be conducted prior to award of a contract.

Award Criteria	Weight	X	Rating	=	Value
1. Quality and appropriateness of program offered; resumes of instructors.	<u>5</u>	X	_____	=	_____
2. Implementation strategy (logistics, facilities, curriculum) and timeline.	<u>3</u>	X	_____	=	_____
3. Cost	<u>3</u>	X	_____	=	_____
4. Past success w/ similar programs	<u>1</u>	X	_____	=	_____
5. Curriculum and fit to business community needs	<u>3</u>	X	_____	=	_____
6. Overall response to the RFP	<u>4</u>	X	_____	=	_____
			Total	=	_____

This proposal will be evaluated on a cumulative point system.

### Scoring

Outstanding	.	.	.	7
Good	.	.	.	5
Average	.	.	.	3
Poor	.	.	.	1
Not Addressed or Unacceptable				0

Company Name: \_\_\_\_\_

## PRICE SHEET

ITEM NO.	DESCRIPTION OF REQUIRED MATERIAL, SERVICE OR CONSTRUCTION	QTY	UNIT	UNIT PRICE
----------	---	-----	------	------------

	Total cost for program (all inclusive cost)	1	Ea	\$ _____
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\* Applicable Tax \_\_\_\_\_ %

**\* State correct jurisdiction to receive sales tax on the Vendor's Bid Offer, form CS-P201 (B) included in this Invitation for Bid document.**

Less prompt payments discount terms of \_\_\_\_ % \_\_\_\_ days/ or Net 30 days. (To apply after receipt and acceptance of an itemized monthly statement.) For bid evaluation purposes, the City cannot utilize pricing discounts based upon payments being made in less than 30 days from receipt of statement.

### Ordering and Invoice Instructions

In order to facilitate internal control and accounting, each City Department will order and must be invoiced separately. Monthly invoices must be segregated by City Department number and mailed or delivered directly to the City Customer Department. For most materials, there will be between three - (3) and six - (6) ordering departments. At the time an order is placed, the contractor must obtain the ordering department's cost center numbers for billing purposes. The use of the department's cost center numbers will be in addition to the purchase order number. Once a month, the contractor shall submit a consolidated statement which shall itemize the invoice numbers, invoice date, invoice amounts, and the total amount billed to Accounting. Discount offering will be based upon days from receipt of the consolidated monthly statement. Invoice(s) shall not show previous balances.

Invoices shall include:

1. Listing Of All Delivery/Pickup Receipt Numbers Being Invoiced.
2. Total Cost Per Item.
3. Applicable Tax.
4. Payment Terms.
5. Blanket Purchase Order Number.

Invoices that do not follow the above minimum invoicing requirements will not be paid. Payment must be applied to only invoices referenced on check/payment stub. The City reserves the right to bill contracted vendor for researching invoices that have been paid, but not properly applied by vendor account receivables office.

Statement mailing address: City of Tempe  
Accounting (see below for your contact)  
P.O. Box 5002  
Tempe, Arizona 85280

Accounting Contacts:	Rajeon Cruz	Letters A-C
	Ramona Zapien	Letters D-O
	Penny Brophy	Letters P-Z

# Request for Taxpayer Identification Number and Certification

Give form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

Name

Business name, if different from above

Check appropriate box: ☐ Individual/  
Sole proprietor

☐ Corporation

☐ Partnership

☐ Other ▶

☐ Exempt from backup  
withholding

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). **However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3.** For other entities, it is your employer identification number (EIN). If you do not have a number, see **How to get a TIN** on page 3.

**Note:** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number								
			+			+		
or								
Employer identification number								
			+					

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
2. I am not subject to backup withholding because: **(a)** I am exempt from backup withholding, or **(b)** I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding, **and**
3. I am a U.S. person (including a U.S. resident alien).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

**Sign Here** Signature of U.S. person ▶

Date ▶

## Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

**Note:** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Foreign person.** If you are a foreign person, use the appropriate Form W-8 (see **Pub. 515**, Withholding of Tax on Nonresident Aliens and Foreign Entities).

## Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.



**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a **nonresident alien or a foreign entity** not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 30% of such payments (29% after December 31, 2003; 28% after December 31, 2005). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will **not** be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate **Instructions for the Requester of Form W-9**.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Name

If you are an individual, you must generally enter the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your **individual** name as shown on your social security card on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

**Limited liability company (LLC).** If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, **enter the owner's name on the "Name" line.** Enter the LLC's name on the "Business name" line.

**Other entities.** Enter your business name as shown on required Federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

**Note:** You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

### Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note:** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

**Exempt payees.** Backup withholding is **not required** on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2);
2. The United States or any of its agencies or instrumentalities;
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities;
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities; or
5. An international organization or any of its agencies or instrumentalities.

Other payees that **may be exempt** from backup withholding include:

6. A corporation;
7. A foreign central bank of issue;
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States;

- 9. A futures commission merchant registered with the Commodity Futures Trading Commission;
- 10. A real estate investment trust;
- 11. An entity registered at all times during the tax year under the Investment Company Act of 1940;
- 12. A common trust fund operated by a bank under section 584(a);
- 13. A financial institution;
- 14. A middleman known in the investment community as a nominee or custodian; or
- 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, **1** through **15**.

If the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for <b>9</b>
Broker transactions	Exempt recipients <b>1</b> through <b>13</b> . Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients <b>1</b> through <b>5</b>
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt recipients <b>1</b> through <b>7</b> <sup>2</sup>

<sup>1</sup> See **Form 1099-MISC**, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are **not exempt** from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a Federal executive agency.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a **resident alien** and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see **How to get a TIN** below.

If you are a **sole proprietor** and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner **LLC** that is disregarded as an entity separate from its owner (see **Limited liability company (LLC)** on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

**Note:** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get **Form SS-5**, Application for a Social Security Card, from your local Social Security Administration office or get this form on-line at [www.ssa.gov/online/ss5.html](http://www.ssa.gov/online/ss5.html). You may also get this form by calling 1-800-772-1213. Use **Form W-7**, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or **Form SS-4**, Application for Employer Identification Number, to apply for an EIN. You can get Forms W-7 and SS-4 from the IRS by calling 1-800-TAX-FORM (1-800-829-3676) or from the IRS Web Site at [www.irs.gov](http://www.irs.gov).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Writing "Applied For" means that you have already applied for a TIN **or** that you intend to apply for one soon.

**Caution:** A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 3, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see **Exempt from backup withholding** on page 2.

**Signature requirements.** Complete the certification as indicated in 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA or Archer MSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or single-owner LLC	The owner <sup>3</sup>
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner <sup>3</sup>
7. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> **You must show your individual name**, but you may also enter your business or "DBA" name. You may use either your SSN or EIN (if you have one).

<sup>4</sup> List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA or Archer MSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, or to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 30% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.